

### Remarks

Reconsideration of this application as amended is respectfully requested.

Claims 1-12 stand rejected under 35 U.S.C. §102(e) in view of U.S. Patent No: 6,486,915 of *Bell et al.* ("*Bell*").

Applicant submits that amended claim 1 is not anticipated by *Bell* because *Bell* does not disclose determining a selected exposure in response to the numbers of clipped pixels contained in photographs obtained using each of a set of possible exposures as claimed in amended claim 1. Instead, *Bell* determines an exposure setting in response to a maximum value in a pixel histogram of a photograph and a mean value (*Bell*, col. 5, lines 59-63) and a minimum value in the pixel histogram (*Bell*, col. 5, line 66 through col. 6 line 1) and whether a mean value of the pixel histogram is within a tolerable range (*Bell*, col. 6, lines 21-25).

*Bell* uses the number of clipped pixels in a photograph to adjust the size of a sample window and not to determine a selected exposure as claimed in amended claim 1. For example, *Bell* discloses a step 312 in which it is determined whether the number of clipped pixels in a sample window exceeds 5 percent of the total number of pixels (*Bell*, col. 5, lines 15-22) and then states that

If the test in step 312 is true, then this means that the imager's dynamic range is far too small to capture the whole scene's dynamic range. Thus, the current sample window may not be the best window to determine the optimal exposure setting for this particular scene. In this case, operation will proceed with step 316 in which the sample window is reduced to concentrate effort on determining a final exposure for the main subject, which is likely positioned in the center of the scene.  
(*Bell*, col. 6, lines 23-31) (emphasis added).

In response to applicant's argument that *Bell* does not teach determining a selected exposure in response to

the numbers of clipped pixels contained in obtained photographs as claimed in amended claim 1, the examiner has stated that

Bell teaches that by replacing the aim mean with a dynamic aim mean, which is a noise dependent variable that is computed for each captured scene. This dynamic aim mean is computed as a function of each exposure setting. Moreover, the dynamic aim mean is used to define the noise of the pixels as a function of different exposures (col. 8, lines 1-67). An example of this relationship is analyzed in figures 8 and 9.  
(Pages 2-3, Office Action, 11-18-04).

Applicant respectfully submits that the dynamic aim mean disclosed by *Bell* does not anticipate the number of clipped pixels in obtained photographs as claimed in amended claim 1. Instead, the dynamic aim mean of *Bell* is determined by obtaining a set of dark frames by closing the camera shutter. (*Bell*, col. 8, lines 39-41). Clearly, pixel data obtained with a closed shutter are not clipped pixels as claimed in amended claim 1.

Moreover, the dynamic aim mean of *Bell* is not used to select an exposure setting as are the numbers of clipped pixels of amended claim 1. Instead, the dynamic aim mean of *Bell* is used to switch between coarse and fine granularities during an automated search methodology. (*Bell*, col. 7, lines 58-65).

It is therefore respectfully submitted that the method for exposure control of amended claim 1 that determines a selected exposure based on the number of clipped pixels for each possible exposure is not anticipated by the exposure control of *Bell* which determines a selected exposure based on mean values in pixel histograms.

Given that claims 2-4 depend from amended claim 1, it is submitted that claims 2-4 are not anticipated by *Bell*.

Applicant also submits that claim 5 is not

anticipated by *Bell*. Claim 5 includes limitations similar to the limitations of amended claim 1. Therefore, the remarks stated above with respect to amended claim 1 also apply to claim 5.

Given that claims 6-8 depend from claim 5, it is submitted that claims 6-8 are not anticipated by *Bell*.

It is also submitted that claim 9 is not anticipated by *Bell*. Claim 9 is a digital camera having an image processor that determines a selected exposure based on the number of clipped pixels obtained for each possible exposure. In contrast, *Bell* discloses an exposure control mechanism that determines an exposure setting by comparing a maximum value in a pixel histogram to a mean value (*Bell*, col. 5, lines 59-62) and comparing a minimum value in a pixel histogram to the mean value (*Bell*, col. 5, line 66 through col. 6 line 1) and determining whether a mean in a pixel histogram is within a tolerable range (*Bell*, col. 6, lines 21-25).

Given that claims 10-12 depend from claim 9, it is submitted that claims 10-12 are not anticipated by *Bell*.

It is respectfully submitted that in view of the amendments and arguments set forth above, the applicable objections and rejections have been overcome.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit Account No. 08-2025 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

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